



Ohio Judicial Conference

The Voice of Ohio Judges

House Civil Justice Committee

Paul Pfeifer

Opponent Testimony on House Bill 209

Chair Eklund, Vice Chair Manning, Ranking Member Thomas, and members of the Senate Judiciary Committee, I thank you for this opportunity to submit opponent testimony for House Bill 209 on behalf of the Ohio Judicial Conference. I am Paul Pfeifer, Executive Director of the Ohio Judicial Conference, former Justice of the Supreme Court of Ohio and former State Senator and Representative.

The Ohio Judicial Conference had not previously taken a formal position on H.B. 209 or the previous efforts to eliminate the estate of dower, but as this bill has advanced, we have heard increasing concerns about how this bill would impact family court matters. Domestic relations judges share the concerns of the attorneys who practice before them in court and of domestic violence advocates. The most common concern is that by eliminating dower there would not be enough protection in Ohio law for situations involving an unscrupulous spouse who sells real estate or other marital property without informing the non-titled spouse. This happens most frequently in the lead-up to a divorce and can involve the single greatest asset a family owns—the marital home.

Currently, the estate of dower cannot prevent all fraudulent transactions, such as when a spouse defrauds a bank or title company by claiming to be unmarried or forging the signature of their spouse. When this happens, a domestic relations judge can order a distributive award and attorney fees, but they cannot create something out of nothing. The titled spouse may use up the proceeds quickly for any number of reasons, and as one judge said concerning the transfer of the marital home, “When it’s gone, it’s gone.” This leaves the domestic relations judge with no recourse for an equitable distribution for the innocent spouse. If dower is eliminated without some substitute, these types of transactions will increase because there would no longer be a legal requirement for dual spousal signatures – in other words, what is currently considered fraudulent activity would no longer be restricted in any way.

These concerns have led the OJC to join a group of family law attorneys in discussing possible solutions for maintaining satisfactory spousal protections after the elimination of dower. This may require codifying a new spousal protection, or the enhancement of an existing protection. We suggest maintaining a dual spousal signature requirement for residential real estate, or at a minimum, the marital home. We hope that this Committee and the sponsors, Representative Carruthers and

Representative Kick, and the bill's proponents consider suggestions coming from the OJC and family law attorneys on how we can codify adequate protections in the Revised Code.

If our assistance on this bill would be beneficial, we would be happy to participate in conversations on forming a compromise solution or help in any way we can. We thank you for considering our testimony. I am available to answer any questions you may have.